

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #14	CCRB Case #: 201910770	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 04/01/2019 2:55 PM	Location of Incident: [REDACTED]	Precinct: 121	18 Mo. SOL 10/1/2020	EO SOL 5/18/2021	
Date/Time CV Reported Tue, 12/17/2019 10:18 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 12/17/2019 10:18 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Kenneth Greene	26490	945785	121 PCT
2. SGT Anthony Biagini	05275	952464	121 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Danny Velazquez	07057	961578	121 PCT
2. POM Michael Simone	11176	948136	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kenneth Greene	Discourtesy: Police Officer Kenneth Greene spoke discourteously to § 87(2)(b)	[REDACTED]
B.POM Kenneth Greene	Force: Police Officer Kenneth Greene pointed his gun at § 87(2)(b)	[REDACTED]
C.POM Kenneth Greene	Force: Police Officer Kenneth Greene pointed his gun at § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On December 17, 2019, § 87(2)(b) filed this complaint through the CCRB's online website.

On April 1, 2019, at approximately 2:55 p.m., § 87(2)(b) and his wife, § 87(2)(b) were driving their five school-age children – including § 87(2)(b) and § 87(2)(b) – home from school in the vicinity of § 87(2)(b) in Staten Island when a red Chevrolet Malibu drove past their vehicle at a high rate of speed, which nearly caused § 87(2)(b) to drive off the road. In response, § 87(2)(b) exited his car, walked up to the Chevy and began to yell at the driver of the car, known to the investigation as § 87(2)(b). § 87(2)(b) then walked back to his car and sat down in the passenger seat. Within moments, Police Officer Kenneth Greene of the 121st Precinct approached § 87(2)(b)'s car and allegedly yelled, "Get the fuck out of the car!" to § 87(2)(b) (**Allegation A: Discourtesy**, § 87(2)(g)) while pointing his firearm at § 87(2)(b) and § 87(2)(b) (**Allegations B and C: Force**, § 87(2)(g)). § 87(2)(b) was arrested by PO Greene's partner, Police Officer Danny Velazquez of the 121st Precinct, and charged with § 87(2)(b), § 87(2)(a) CPL 160.50.

§ 87(4-b), § 87(2)(g)

According to the Office of Court Administration, there is no defendant found on file regarding § 87(2)(b)'s arrest (BR 01).

Body-worn camera footage was obtained from PO Greene and PO Velazquez and will be discussed in further detail below.

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Kenneth Greene spoke discourteously to § 87(2)(b).

Allegation (B) Force: Police Officer Kenneth Greene pointed his gun at § 87(2)(b).

Allegation (C) Force: Police Officer Kenneth Greene pointed his gun at § 87(2)(b).

It is undisputed that PO Greene unholstered and pointed his firearm in the direction of § 87(2)(b)'s and § 87(2)(b)'s Ford Expedition until § 87(2)(b) exited his vehicle.

§ 87(2)(b) told the investigation (BR 02) that he yelled, "Bitch, what you speeding for? I got eight kids the car. This is a school zone. You're not supposed to be speeding in a fucking school zone. What you speeding for?" § 87(2)(b) denied ever making physical contact with the vehicle. § 87(2)(b) then sat down in his car. Immediately after sitting back in the front passenger seat of his vehicle, § 87(2)(b) saw a marked police car come from a McDonald's across § 87(2)(b). The police car drove the wrong direction down the street and ultimately blocked off § 87(2)(b)'s car. PO Greene jumped out of the police car, immediately unholstering and pointing his firearm. § 87(2)(b) alleged that PO Greene pointed his firearm at § 87(2)(b) and at § 87(2)(b) who was in the backseat on the driver's side. § 87(2)(b) was unsure if PO Greene pointed the firearm at him. As PO Greene pointed his firearm, he allegedly yelled, "Get the fuck out of the car!" PO Greene then pulled § 87(2)(b) out of the car and handcuffed him before placing § 87(2)(b) in a police van.

According to § 87(2)(b) (BR 03), upon approaching the vehicle, § 87(2)(b) told § 87(2)(b) that she needed to be careful because § 87(2)(b) and § 87(2)(b) had a lot of kids in the car and that § 87(2)(b)'s driving was not responsible. Once § 87(2)(b) sat back down in the Ford Expedition, a police car drove across the street and blocked off the front of § 87(2)(b)'s car. PO Greene exited the car with his gun unholstered and allegedly pointed his firearm while looking at the front and back seats. Due to the combination of PO Greene pointing his firearm while looking at the front and back seats, § 87(2)(b) felt that the gun was pointed "all over the car," including at herself and at the children in the back seat. As PO Greene pointed his gun, he yelled,

“Get out of the car.”

According to § 87(2)(b) (BR 04), who was sitting in the backseat, § 87(2)(b) exited his vehicle and yelled at § 87(2)(b) that he had children in the car — § 87(2)(b) said nothing to § 87(2)(b) of having a gun or using a firearm against § 87(2)(b). § 87(2)(b) returned to the vehicle and sat down in the passenger seat. Immediately upon sitting down, a marked police vehicle pulled in front of § 87(2)(b)'s and § 87(2)(b)'s car, containing PO Greene. PO Greene approached their vehicle, unholstering and pointing his firearm. § 87(2)(b) alleged that PO Greene pointed his firearm at § 87(2)(b) and in the general direction of the backseat where § 87(2)(b) was seated. § 87(2)(b) told the investigation that PO Greene never pointed the gun directly at her.

PO Greene testified (BR 05) that he had been assigned a fixed post at the McDonald's at § 87(2)(b) on Staten Island with PO Velazquez. He had forgotten his phone at home earlier that day. His wife, known to the investigation as § 87(2)(b), drove in her red Chevrolet Malibu to give PO Greene his phone at the fixed post. § 87(2)(b) then drove off on § 87(2)(b) as PO Greene sat down in his marked police van. Moments later, § 87(2)(b) called PO Greene on his phone, telling him that there was someone, known to the investigation as § 87(2)(b), banging on her car window. § 87(2)(b) put herself on speaker, and PO Greene heard § 87(2)(b) scream to § 87(2)(b) that he was going to “put a bullet in her head.” PO Greene did not recall any other statements § 87(2)(b) said to his wife. PO Greene then exited the police vehicle and looked for § 87(2)(b)'s car. As he looked, PO Greene saw § 87(2)(b) throw a water bottle at § 87(2)(b)'s car. PO Greene saw § 87(2)(b) sit down in the passenger seat of a large red Ford SUV. PO Greene testified that he intended to arrest § 87(2)(b) given § 87(2)(b)'s threat of bodily harm to § 87(2)(b) and his throwing a water bottle at her car. Upon approaching § 87(2)(b)'s Ford SUV, which was approximately three lanes of traffic away from him, PO Greene drew his firearm and pointed it at § 87(2)(b). Upon approach, PO Greene could see § 87(2)(b) and § 87(2)(b) in the front seats. PO Greene denied pointing his firearm at anyone other than § 87(2)(b). PO Greene told the investigation that he pointed his firearm at § 87(2)(b) because § 87(2)(b)'s alleged threat — that he was going to put a bullet in § 87(2)(b)'s head — suggested that § 87(2)(b) may have been armed. All the while, PO Greene directed § 87(2)(b) to exit the vehicle and show his hands. PO Greene denied telling § 87(2)(b) to, “Get the fuck out of the vehicle.” Upon reaching § 87(2)(b) who exited his car with his hands visible, PO Greene saw that § 87(2)(b) was unarmed and holstered his firearm. PO Greene said he had drawn and pointed his gun for approximately 10 seconds.

PO Velazquez (BR 06) sat in the driver's seat of a marked van while PO Greene spoke with § 87(2)(b) on the phone. PO Velazquez did not hear the contents of the phone call between § 87(2)(b) and PO Greene. PO Greene directed PO Velazquez to follow a red car, which he did. PO Velazquez first followed a red car that PO Greene specified was the wrong red car; PO Greene then directed PO Velazquez to approach another red car that was behind their police vehicle. To do so, PO Velazquez drove the wrong way down § 87(2)(b) to approach a different red car head-on. To this point, PO Greene had given no information or instruction regarding the situation to PO Velazquez other than the order to follow a red car. Once PO Velazquez stopped his police vehicle in front of a red Ford SUV, PO Greene exited the vehicle and ran with his gun pointed in the direction of the Ford, primarily at the passenger seat (where § 87(2)(b) was seated); PO Greene holstered his gun once § 87(2)(b) began to exit his vehicle with his hands up. PO Velazquez was unsure if PO Greene issued any commands and did not recall if PO Greene yelled, “Get the fuck out of the car.”

Sgt. Biagini (BR 07) testified that he arrived on scene after PO Velazquez called him and requested his presence to verify an arrest that he and PO Greene had made and therefore was not present at the time of the allegations. Upon his arrival, Sgt. Biagini directed PO Velazquez and PO Greene to drive § 87(2)(b) back to the 121st Precinct stationhouse.

PO Greene's BWC recording (BR 08) begins by showing § 87(2)(b) already in

handcuffs. At the 00:30 minute mark of the recording, PO Greene activates his BWC from standby mode while walking towards § 87(2)(b)'s car, as shown by PO Greene putting his finger to his chest to press the “on” button for the BWC. As is standard for BWCs, the audio recording begins only upon PO Greene’s activation – in this case, the audio begins at the 30-second mark. PO Greene speaks to § 87(2)(b) briefly before returning to his police vehicle. The remainder of his BWC footage shows the arrival of Sgt. Biagini, the transport of § 87(2)(b) to the 121st Precinct stationhouse, and the processing of § 87(2)(b) once at the 121st Precinct stationhouse. No allegations are captured by PO Greene’s BWC footage.

PO Velazquez’s BWC recording (BR 09) begins with PO Greene handcuffing § 87(2)(b) and PO Velazquez assisting by holding § 87(2)(b)'s arms. Unlike PO Greene’s BWC, PO Velazquez’s BWC never shows PO Velazquez motioning his hands to activate his BWC. Furthermore, audio recording for his BWC begins immediately. Due to these facts, the investigation determined that PO Velazquez activated his BWC not from standby mode, but from being powered off – thus, there is a delay between the moment PO Velazquez clicks the “on” button to activate his BWC and when the BWC actually begins recording. Thereafter, PO Velazquez places § 87(2)(b) in his police vehicle. PO Velazquez then speaks with § 87(2)(b) and PO Greene before calling Sgt. Biagini to the scene. The remainder of his BWC footage shows the arrival of Sgt. Biagini, the transport of § 87(2)(b) to the 121st Precinct stationhouse, and the processing of § 87(2)(b) once at the 121st Precinct stationhouse. No allegations are captured by PO Velazquez’s BWC footage.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) have been a party (BR 13).
- PO Greene has been a member of service for twelve years and has been party to five complaints and 15 allegations, none of which were substantiated.
 - § 87(2)(g)
- Sgt. Biagini has been a member of service for eight years and has been part to one complaint and one allegation, which was not substantiated.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- As § 87(2)(b) and § 87(2)(b) filed a civil lawsuit regarding this incident, this case was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming damages for pain and suffering, emotional distress, as well as “diverse general and special damages;” he sought \$1,000,000 in redress. There is no 50H hearing scheduled (BR 14).
- § 87(2)(b) and § 87(2)(b) have no criminal history within the five boroughs of the City of New York (BR 15).

Squad No.: 14

Investigator: Ethan C. Waterman Inv. Ethan Waterman September 29, 2020
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel September 29, 2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date